

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS/TERRE HAUTE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JAMES THOMAS MITCHELL,)
)
Defendant.)

Cause No. 1:19-cr-0293-TWP-TAB-01
2:00-cr-0005-TWP-CMM-02

REPORT AND RECOMMENDATION

On March 14, 2022, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on October 30, 2019. Defendant Mitchell appeared in person with his appointed counsel William Dazey. The government appeared by James Warden , Assistant United States Attorney. U. S. Parole and Probation appeared by Officer James Thomas.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Thomas of his rights and provided him with a copy of the petition. Defendant Thomas orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Thomas admitted violation numbers 1, and 3. [Docket Nos. 5 / 1.] Government orally moved to withdraw the remaining violation 2, which motion was granted by the Court.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“The defendant shall not commit another federal, state or local crime.”**

On October 25, 2019, James Mitchell was arrested by an officer of the Indianapolis Metropolitan Police Department, and charged with Resisting Law Enforcement with a Vehicle, Level 6 Felony, and Operating without a Motor Vehicle without Ever Receiving a License, Class C misdemeanor, under cause number 49G241910F6041433. This case is pending in Marion County Superior Court. The offender appeared for an initial hearing on October 28, 2019, a \$500 cash bond was ordered, and he remains in custody. The probable cause affidavit indicates the offender was observed driving a vehicle with the headlights turned off. When the officer activated his emergency lights, the offender sped off at a high rate of speed, reaching speeds of 60 miles per hour in a residential neighborhood. When stopped the offender admitted he fled because he did not have a valid driver's license.

- 3 **“The defendant shall pay the fine within the time and as directed by the court.”**

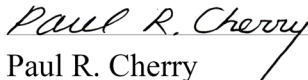
The offender failed to make monthly fine payments, as directed by the probation officer. During 12 months of supervision, he made of total of six payments totaling \$80. He and his girlfriend recently paid \$400 each for a down payment on a vehicle that he did not report to the probation office. He has a balance of \$916 on his fine.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is VI.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 27 months’ imprisonment.
5. The parties jointly recommended a sentence of three (3) months with no supervised release to follow.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of three (3) months with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 3/16/2022


Paul R. Cherry
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system